

USSN 10/607,706
Response to Office Action
July 23, 2007

Amgen Inc.
Docket No. 97-04D3
(A-933-E)

REMARKS

Applicants previously elected claims 1-3, 7-9, and 13-15, drawn to polynucleotides, for further prosecution in response to the Restriction Requirement, and overlooked the fact that claim 19 was also drawn to polynucleotides. However, claims 1-3, 7-9, 13-15 and 19 were examined as a group by the Examiner in the Office Action of 1/24/2007.

After amending the claims as shown above, claims 19 and 23-27 are currently pending in the application. Claims 1-18 and 20-22 have been canceled without prejudice to future filing. Claims 23-27 have been added. Basis for the added claims are found in the specification, for example, page 3, lines 26 to 35, page 15, lines 19-20, page 21, lines 8 to 28, and page 22, lines 4-26. Therefore, no new matter is presented by the added claims. Entry of the amendment to the claims is respectfully requested.

Rejections on the Basis of 35 U.S.C. §112

Claims 1-3, 7-9, and 13-15 have been rejected as lacking enablement under 35 U.S.C. § 112, first paragraph. This rejection is respectfully traversed.

The Examiner has taken the position that the specification is enabling only for polypeptides encoding an isolated peptide, wherein the peptide is selected from the group consisting of: a) residues 2 to 18 of SEQ ID NO: 11; b) residues 2 to 14 of SEQ ID NO:11; c) residues 3 to 18 of SEQ ID NO:11; d) residues 3 to 14 of SEQ ID NO:11; e) residues 4 to 18 of SEQ ID NO:11; f) residues 4 to 14 of SEQ ID NO:11; g) residues 1 to 11 of SEQ ID NO:11; h) residues 1 to 10 of SEQ ID NO:11; and i) residues 2 to 11 of SEQ ID NO:11.

The claims have now been amended to recite claim 19 and new claims that depend from claim 19. Claim 19 recites polynucleotides encoding the specific peptide fragments noted above, and is enabled by the specification, as pointed out by the Examiner. Claims 23 and 24 recite DNA and RNA respectively. Enablement is provided on pages 15, lines 19 to 28, and Examples 1 and 2, pages 40-41, for example. Claims 25, 26 and 27 recite an expression vector comprising the polynucleotides, a host cell comprising the vector, and a method of making the peptides respectively. Enablement is provided on pages 21, lines 19-28, page 21,

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lines 8-18 and page 22 line 4 to page 26, line 14, respectively. Therefore, Applicants respectfully submit that claims 19 and 23-27 are enabled by the instant specification.

Claims 1-3, 7-9, and 13-15 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. This rejection is respectfully traversed.

Applicants submit that claims 19 and 23-27 do comply with the written description requirement, and point to the specification, on page 3, line 26 to 33, and in the sections of the specification noted above. Therefore, Applicants submit that claims 19 and 23-27 are in compliance with the written description requirement under 35 U.S.C. § 112, first paragraph.

Rejections on the Basis of 35 U.S.C. § 112, Second Paragraph

Claims 1-3, 7-9 and 13-15 are rejected on the basis of 35 U.S.C. § 112, second paragraph, as allegedly indefinite. This rejection is respectfully traversed.

Again, applicants have now amended the claims and claims 19 and 23-27 are currently pending. Applicants submit that these claims clearly and distinctly recite the subject matter considered to be the invention, and therefore are in compliance with 35 U.S.C. § 112, second paragraph.

Rejection on the Basis of Double Patenting

Claims 1-3, 7-9 and 13-15 have been rejected on the basis of obvious-type double patenting over the claims 1-16 in U.S. Patent 6,939,690. This rejection is respectfully traversed.

Claim 19 recite polynucleotides encoding peptides that are distinct from claims 1-16 of this patent. Therefore, Applicants submit that claims 19 and 23-27 are patentable over claims 1-16 of U.S. Patent 6,939,690.

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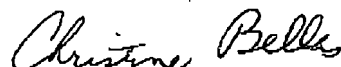
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CONCLUSION

The Examiner has indicated that claim 19 is patentable. Applicants submit that claims 23-27, which depend from claim 19, are also patentable and request an allowance of all of these pending claims.

Applicants' attorney invites the Examiner to call her at the number given below if any issues remain or if it would be helpful in advancing the prosecution of this application.

Respectfully submitted,



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